

EXHIBIT “5”

In The Matter Of:

Bryson, et al v.

Rough Country, LLC

Jonathan Eisenstat, MD

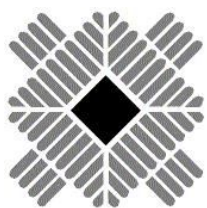
January 15, 2024

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2

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25 have been disclosed and offered to all parties.

This, the 15th day of January, 2024.

KELLY D'AMICO, CEO
D'AMICO & ASSOCIATES

<p style="text-align: right;">Page 5</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 On behalf of the Plaintiffs:</p> <p>4 TEDRA L. CANNELLA</p> <p>5 Attorney at Law</p> <p>6 Cannella Snyder, LLC</p> <p>7 315 W Ponce de Leon Avenue</p> <p>8 Suite 885</p> <p>9 Decatur, Georgia 30030</p> <p>10 T: (404) 800-4828</p> <p>11 E: tedra@cannellasnyder.com</p> <p>12</p> <p>13 On behalf of the Defendant:</p> <p>14 RICHARD H. HILL, II</p> <p>15 Attorney at Law</p> <p>16 Weinberg, Wheeler, Hudgins, Gunn & Dial</p> <p>17 3344 Peachtree Road</p> <p>18 Suite 2400</p> <p>19 Atlanta, Georgia 30326</p> <p>20 T: (404) 876-2700</p> <p>21 E: rhill@wwhgd.com</p> <p>22</p> <p>23 - - -</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. Which of those hats are you</p> <p>3 wearing today? Are you just here because you</p> <p>4 performed the autopsy or have you been retained by the</p> <p>5 plaintiffs to give testimony in this case?</p> <p>6 A. I've not been retained, so I'm here as</p> <p>7 the medical examiner who did the autopsy.</p> <p>8 MR. HILL: Okay. I'll mark as Exhibit 1</p> <p>9 just a copy of the notice just so we'll have it</p> <p>10 in there. This is the notice of your</p> <p>11 deposition.</p> <p>12 (Thereupon, marked for identification,</p> <p>13 Defendant's Exhibit 1.)</p> <p>14 BY MR. HILL:</p> <p>15 Q. Have you seen that before today?</p> <p>16 A. I have.</p> <p>17 Q. And have you provided to counsel for the</p> <p>18 plaintiffs all of the material responsive to Exhibit A</p> <p>19 in the notice?</p> <p>20 A. Everything that I have I did. Let me</p> <p>21 look to see if there's anything -- so obviously</p> <p>22 there's things in here since I'm not a retained expert</p> <p>23 in this case --</p> <p>24 Q. Sure.</p> <p>25 A. -- that I did I don't have, but</p>
<p style="text-align: right;">Page 6</p> <p>1 JONATHAN EISENSTAT, M.D.,</p> <p>2 having been first duly sworn, was examined and</p> <p>3 testified as follows:</p> <p>4 MR. HILL: Thank you.</p> <p>5 EXAMINATION</p> <p>6 BY MR. HILL:</p> <p>7 Q. It's Dr. Eisenstat? Did I pronounce that</p> <p>8 correctly?</p> <p>9 A. Yep, yes.</p> <p>10 Q. Well, thank you for being here this</p> <p>11 morning. My name is Rick Hill and I represent the</p> <p>12 defendant in this case, Rough Country.</p> <p>13 You can correct me if I'm wrong, but I'm</p> <p>14 not sure we have ever met before.</p> <p>15 A. No, I don't think we have.</p> <p>16 Q. And no one from our office has discussed</p> <p>17 this case with you prior to today; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And have you discussed the case with</p> <p>20 counsel for the plaintiffs prior to today?</p> <p>21 A. I have.</p> <p>22 Q. And I know you were the ME who performed</p> <p>23 the autopsy in this case, but you also work as a</p> <p>24 consultant where you can be retained by parties in</p> <p>25 litigation to give your opinions?</p>	<p style="text-align: right;">Page 8</p> <p>1 everything that I do have that's responsive I did</p> <p>2 supply.</p> <p>3 Q. And the things you don't have are not</p> <p>4 applicable you're saying --</p> <p>5 A. That's correct.</p> <p>6 Q. -- because you're not retained in this</p> <p>7 case?</p> <p>8 A. That's correct.</p> <p>9 Q. All right. Put a sticker on there.</p> <p>10 All right. So you haven't billed anyone</p> <p>11 for your time in this case?</p> <p>12 A. Not yet, but I will just as at the GBI.</p> <p>13 So I don't work at the GBI anymore. So if this was</p> <p>14 occurring while I was still at the GBI, the State of</p> <p>15 Georgia would have billed Ms. Cannella's firm for the</p> <p>16 time and preparation for the deposition and then the</p> <p>17 GBI -- I don't know if it would be to you or to the</p> <p>18 plaintiff's firm for the deposition.</p> <p>19 Q. Sure.</p> <p>20 So in this case you're going to bill her</p> <p>21 eventually for your time preparing for today and then</p> <p>22 for your time today?</p> <p>23 A. Correct.</p> <p>24 Q. And that's just -- we have an agreement</p> <p>25 that we would, you know, absorb the costs of our own</p>

<div>Page 9</div> <div> <div>1 experts in this case so that's why it's going to her.</div> <div>2 A. Okay. Got it.</div> <div>3 Q. I kind of have a list here, I believe, of</div> <div>4 what you have provided. You brought a disc with you</div> <div>5 today that has your file material on it?</div> <div>6 A. A jump drive, yes.</div> <div>7 Q. A jump drive. And is that for us to</div> <div>8 keep?</div> <div>9 A. Yes.</div> <div>10 (Thereupon, marked for identification,</div> <div>11 Defendant's Exhibit 2.)</div> <div>12 BY MR. HILL:</div> <div>13 Q. We'll mark that as Exhibit 2 just so we</div> <div>14 have it. And I've got a laptop if we want to punch it</div> <div>15 up and look at it; and then if you want to look at</div> <div>16 anything on there at any time, just let me know and I</div> <div>17 can make it available to you.</div> <div>18 It appears to me that what we have</div> <div>19 received is autopsy photographs in both printed out</div> <div>20 and JPG, JPEG formats and those were photographs that</div> <div>21 you took of the autopsy of the child in this case?</div> <div>22 A. It was a forensic photographer who took</div> <div>23 them at my request.</div> <div>24 Q. Got it.</div> <div>25 A. I blanked on the word for a second.</div> </div>	<div>Page 11</div> <div> <div>1 important for me than my role here today.</div> <div>2 Q. Sure.</div> <div>3 So your role here today is to discuss</div> <div>4 your autopsy of the child involved in the accident?</div> <div>5 A. Yes, and obviously within that the cause</div> <div>6 of death.</div> <div>7 Q. Sure.</div> <div>8 Your role here today is not to give</div> <div>9 opinions with regard to how the accident occurred?</div> <div>10 A. That's correct.</div> <div>11 Q. Or anything related to the drivers</div> <div>12 involved in the accident?</div> <div>13 A. That's correct.</div> <div>14 Q. Okay. How did you obtain the SCRT</div> <div>15 report?</div> <div>16 A. From Ms. Cannella's office.</div> <div>17 Q. Is that the only thing that she sent you?</div> <div>18 The rest of this appears to be things that you would</div> <div>19 have probably had on your own or did she send you</div> <div>20 materials above and beyond the SCRT report?</div> <div>21 A. She sent me everything in that list.</div> <div>22 Q. Okay.</div> <div>23 A. Since I again don't work at the GBI</div> <div>24 anymore, I don't have, and I shouldn't have, the right</div> <div>25 to say, hey, give me whatever I need. So any case --</div> </div>
<div>Page 10</div> <div> <div>1 Q. Sure.</div> <div>2 But he was there while you were</div> <div>3 performing the autopsy and took the photographs at</div> <div>4 your request?</div> <div>5 A. That's correct.</div> <div>6 Q. And then we have a certification for</div> <div>7 those photographs. Coroner photos, are those</div> <div>8 different from autopsy photographs?</div> <div>9 A. Yes, those are photographs of the child</div> <div>10 in the hospital.</div> <div>11 Q. Okay. And then we have the autopsy</div> <div>12 report, which is your three-page report, dated I</div> <div>13 believe April 13th, 2020?</div> <div>14 A. Correct.</div> <div>15 Q. Then we have the Georgia Department of</div> <div>16 Public Safety SCRT inspection?</div> <div>17 A. Correct.</div> <div>18 Q. And you have -- it says (as read):</div> <div>19 Photos of the vehicles. Did you receive the entire</div> <div>20 SCRT report?</div> <div>21 A. I don't know because I don't know how</div> <div>22 many pages the entire SCRT report would have been.</div> <div>23 I'd have to look at that jump drive to tell you how</div> <div>24 many pages I did receive, but in all honesty, if I</div> <div>25 were a retained expert, it would become much more</div> </div>	<div>Page 12</div> <div> <div>1 I'll just say any case that I get involved in, you</div> <div>2 know, even criminal cases through district attorneys</div> <div>3 around the state, if it's a case that I did while I</div> <div>4 was at GBI and the trial or the case is going forward</div> <div>5 after I left GBI, I always get the materials through</div> <div>6 the attorneys whether it be the district attorney, a</div> <div>7 plaintiff's attorney, a defense attorney, whatever.</div> <div>8 Q. Sure. Makes sense.</div> <div>9 The last thing I have here on the list</div> <div>10 is -- well, you have the Fannin County coroner's</div> <div>11 autopsy report?</div> <div>12 A. Right, so that's not really the autopsy</div> <div>13 report. That's -- in the state of Georgia the coroner</div> <div>14 is the one who responds to the phone call about the</div> <div>15 death.</div> <div>16 Q. Right.</div> <div>17 A. So it's actually not an autopsy report.</div> <div>18 It's their file. Just a little bit of investigative</div> <div>19 background and the death certificate and things of</div> <div>20 that sort.</div> <div>21 Q. Sure. So it would be more properly</div> <div>22 described as a coroner's report; right?</div> <div>23 A. That's correct.</div> <div>24 Q. And then the last document I have is a</div> <div>25 document we were provided last week, which is Bates</div> </div>

<p style="text-align: right;">Page 13</p> <p>1 labeled Bryson 3955 through 3961. And that appears to</p> <p>2 be a document that you created called Materials</p> <p>3 Reviewed. Is that -- and I'll hand you a copy of</p> <p>4 that.</p> <p>5 A. Yes, sir, that's correct.</p> <p>6 MR. HILL: We can make that Exhibit 3</p> <p>7 just to have it.</p> <p>8 (Thereupon, marked for identification,</p> <p>9 Defendant's Exhibit 3.)</p> <p>10 BY MR. HILL:</p> <p>11 Q. All right. And describe this document</p> <p>12 for me. Was I correct in saying that you drafted that</p> <p>13 in connection with, I guess, preparing for this</p> <p>14 deposition?</p> <p>15 A. That's exactly right. So when I was</p> <p>16 contacted about this case, I didn't know if I was</p> <p>17 being retained or if I was just doing this as the GBI.</p> <p>18 Q. Right.</p> <p>19 A. And so what I -- what I do in every case</p> <p>20 now is I basically go through the documents and I cut</p> <p>21 and paste. There's no opinions in this document. Cut</p> <p>22 and paste from the documents I reviewed to try to pare</p> <p>23 down the number of pages I have to go back and look</p> <p>24 at. So they're my notes, in essence, but again, no</p> <p>25 opinions in this document.</p>	<p style="text-align: right;">Page 15</p> <p>1 and I said: So I did the autopsy. Am I a fact</p> <p>2 witness or an expert witness? And we decided -- or</p> <p>3 she decided that I would be a fact witness in this</p> <p>4 case.</p> <p>5 Q. I understand. And so -- go ahead.</p> <p>6 A. I was just going to say as of right now.</p> <p>7 I don't know what happens down the road, but...</p> <p>8 Q. As we sit here today, though, you are</p> <p>9 just a fact witness because you performed the autopsy?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And did you have any discussions with her</p> <p>12 above and beyond the findings in your autopsy?</p> <p>13 A. Well, I mean, we discussed everything</p> <p>14 that was here, you know. The autopsy report lays out</p> <p>15 the findings. We did discuss that, you know, this is</p> <p>16 a blunt impact to the head, what does that blunt</p> <p>17 impact mean, and I'm sure we'll get into that.</p> <p>18 Q. Sure.</p> <p>19 A. And really I think that was it, you know.</p> <p>20 We didn't go into anything further.</p> <p>21 Q. Beyond these materials we've just</p> <p>22 discussed, are you relying upon anything else in</p> <p>23 giving your testimony today?</p> <p>24 A. No, sir.</p> <p>25 Q. Okay. Have you inspected the vehicles?</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. Gotcha.</p> <p>2 When you were -- when were you first</p> <p>3 contacted by Ms. Cannella about the case? And I don't</p> <p>4 need an exact date. Just --</p> <p>5 A. Yeah, if I remember correctly -- gosh, I</p> <p>6 should -- and I should have looked that up. I</p> <p>7 honestly don't recall if it was a year ago or how long</p> <p>8 ago, but I can look that up real quickly if you would</p> <p>9 like.</p> <p>10 Q. That's okay for now. It was after you</p> <p>11 performed the autopsy?</p> <p>12 A. Oh, yes, it was -- it was way after I</p> <p>13 performed the autopsy.</p> <p>14 Q. After you had retired or left the GBI?</p> <p>15 A. That's correct.</p> <p>16 Q. And what did she ask you to do when she</p> <p>17 contacted you?</p> <p>18 A. She just asked me to look at the case.</p> <p>19 That was all. And that's why I wasn't sure what I was</p> <p>20 doing. So that's why this document was formed. And</p> <p>21 then when we spoke, when I, you know, finished my</p> <p>22 review and we spoke, I realized -- well, obviously</p> <p>23 while I was reviewing I realized it was an autopsy I</p> <p>24 did.</p> <p>25 So that's when we discussed my findings</p>	<p style="text-align: right;">Page 16</p> <p>1 A. No.</p> <p>2 Q. Or the car seat involved?</p> <p>3 A. No, sir.</p> <p>4 Q. Have you spoken to any of the other</p> <p>5 experts in the case?</p> <p>6 A. I don't even know who they are.</p> <p>7 Q. Okay. So obviously you haven't been</p> <p>8 provided their reports or their opinions?</p> <p>9 A. I have not.</p> <p>10 Q. Did you discuss their opinions with</p> <p>11 Ms. Cannella?</p> <p>12 A. No. Again, I don't even know who the</p> <p>13 experts are, anything to that effect -- that effect.</p> <p>14 I would say if I was being retained as an expert there</p> <p>15 is a lot more that I would like to do before I would</p> <p>16 come to maybe other conclusions.</p> <p>17 Q. Sure.</p> <p>18 Have you received any indication that you</p> <p>19 will eventually be retained as an expert?</p> <p>20 A. No, sir.</p> <p>21 Q. Since you've retired -- before you</p> <p>22 retired from the GBI, you've also worked as a</p> <p>23 consultant in litigation; correct?</p> <p>24 A. Yes, I have.</p> <p>25 Q. And in that capacity what percentage of</p>

<p style="text-align: right;">Page 17</p> <p>1 your cases are you retained by the plaintiff?</p> <p>2 A. So in the totality of my expert work I</p> <p>3 would say it's about 80 percent, maybe 85 percent</p> <p>4 plaintiff and then 15 to 20 percent defense.</p> <p>5 Q. And what percentage is in civil cases</p> <p>6 versus criminal cases?</p> <p>7 A. Oh, 95 to 99 percent are civil. When I</p> <p>8 was at the GBI, we had an agreement that I would not</p> <p>9 look at a criminal case or consult in criminal cases</p> <p>10 for, you know, obvious conflict-of-interest reasons.</p> <p>11 Q. Sure.</p> <p>12 A. So I have only started looking at</p> <p>13 criminal cases as an expert or I should say as a</p> <p>14 consultant maybe a year or two ago or probably about</p> <p>15 two years ago. So I think I have maybe three to five</p> <p>16 criminal cases I've looked at.</p> <p>17 Q. I understand. And that's -- you were</p> <p>18 talking February of 2022 from the GBI; is that right?</p> <p>19 A. '20 -- I always forget if it's '21 or '22</p> <p>20 because it seems like 100 years ago now.</p> <p>21 Q. Right, sure.</p> <p>22 A. But yeah, at the very end of January.</p> <p>23 February 1st was my first day out. So January 31st</p> <p>24 was my last day at the GBI, and I believe it was '22.</p> <p>25 Q. I understand you've not been retained in</p>	<p style="text-align: right;">Page 19</p> <p>1 cases total prior to this one?</p> <p>2 A. With Ms. Cannella directly, correct,</p> <p>3 something in that area.</p> <p>4 Q. And then what about other cases for her</p> <p>5 firm or her former firms?</p> <p>6 A. Her former firm, so Butler Wooten I've</p> <p>7 looked at more cases for. I don't think -- I don't</p> <p>8 know what other firms other than Cannella Snyder and</p> <p>9 Butler Wooten.</p> <p>10 Q. Sure.</p> <p>11 A. But at Butler Wooten I have probably</p> <p>12 looked at about maybe ten cases total over the years.</p> <p>13 Q. And this dates back to when?</p> <p>14 A. Oh, goodness, probably about ten years</p> <p>15 ago. So maybe -- maybe in the area of 2015.</p> <p>16 Q. Have you ever been retained by Weinberg</p> <p>17 Wheeler to consult on any cases -- that's my firm --</p> <p>18 that you can recall?</p> <p>19 A. Well, you did -- your firm has definitely</p> <p>20 taken my deposition. I don't think I've been retained</p> <p>21 by you guys. I'd have to look, but I'm almost</p> <p>22 positive I have not been retained by you guys, your</p> <p>23 firm.</p> <p>24 Q. All right. When you were with the GBI</p> <p>25 and you were the chief medical examiner, approximately</p>
<p style="text-align: right;">Page 18</p> <p>1 this case, but in prior instances have you worked for</p> <p>2 Ms. Cannella's firm?</p> <p>3 A. I have.</p> <p>4 Q. And how many cases have you worked on for</p> <p>5 her?</p> <p>6 A. Just a couple. I think maybe two or</p> <p>7 three.</p> <p>8 Q. Did either of those or any of those</p> <p>9 involve motor vehicle accidents?</p> <p>10 A. Yes.</p> <p>11 Q. Did all of them involve motor vehicle</p> <p>12 accidents?</p> <p>13 A. I'm not sure, but I would think probably.</p> <p>14 Again, that's something easy for me to look at at a</p> <p>15 break or something.</p> <p>16 Q. Sure.</p> <p>17 What about Ms. Cannella's prior firms?</p> <p>18 Did you work for her when she -- before she started</p> <p>19 her own firm?</p> <p>20 A. I believe -- and Tedra, don't be upset.</p> <p>21 You were with -- I think she was with Butler Wooten.</p> <p>22 Q. That's correct.</p> <p>23 A. Yeah, I believe that I looked at one or</p> <p>24 two cases for her when she was at Butler Wooten.</p> <p>25 Q. All right. So you think three to five</p>	<p style="text-align: right;">Page 20</p> <p>1 how many autopsies would you perform in a year? I'm</p> <p>2 just trying to get a flavor for your experience.</p> <p>3 A. Sure. So I'll just summarize that when I</p> <p>4 came to Georgia in 2006 --</p> <p>5 Q. Sure.</p> <p>6 A. -- I was doing probably about 250</p> <p>7 autopsies a year for the first couple of years. Then</p> <p>8 things got busier and I probably ranged between 250</p> <p>9 and 325 autopsies a year for a number of years.</p> <p>10 When I took over as chief, which would be</p> <p>11 in November of 2015, I probably did around 100</p> <p>12 autopsies a year. And then when I left the GBI at the</p> <p>13 end of January 2022, I believe it was, I slowed down a</p> <p>14 little bit; but over the last couple of years I've</p> <p>15 averaged about 100 autopsies a year.</p> <p>16 Q. And just if you can estimate, how many of</p> <p>17 those involve a death that occurred in a motor vehicle</p> <p>18 accident?</p> <p>19 A. Oh.</p> <p>20 Q. What percentage?</p> <p>21 A. Oh, boy, I can tell you that I've looked</p> <p>22 at many hundreds of motor vehicle collision cases,</p> <p>23 deaths. What percentage of the overall, that's really</p> <p>24 difficult for me to say because we brought -- I mean,</p> <p>25 we saw everything.</p>

<p style="text-align: right;">Page 21</p> <p>1 Q. Sure. But you can say certainly in the 2 hundreds? 3 A. Oh, no doubt. 4 Q. Yeah. 5 Do you know if any of those prior 6 autopsies involve a motor vehicle accident where one 7 or more of the vehicles was lifted? 8 A. I don't recall. I don't know. I do not 9 know. 10 Q. Do you usually find out about the nature 11 of the vehicles involved in accidents when you perform 12 an autopsy? 13 A. Sometimes. It depends on where -- it 14 depends on the jurisdiction. 15 Q. Sure. 16 A. Sometimes we'll get the SCRT report, 17 sometimes the crash report. The coroner will 18 sometimes -- and I can't tell you the percentage -- 19 tell us what types of vehicles are involved. Actually 20 almost always we'll know if it's a passenger vehicle 21 or a semi truck or things of that sort. 22 But getting into, you know, the nitty- 23 gritty of was it lifted, was it this or that, 24 that's -- that information usually only comes if that 25 case goes to trial and we're asked to do like what I'm</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Yeah, my question was: In that 2 context -- I asked the first question poorly. I said, 3 "when you performed the autopsy." I meant to cover 4 all types of cases you've been involved in. Can you 5 recall one ever that involved a lifted vehicle? 6 A. Oh, well, from consulting I know I have. 7 I -- I can't give you the name of the case. I just 8 won't remember -- I just don't remember, but I know -- 9 and again, that starts getting outside of my area of 10 expertise. 11 Q. Right. 12 A. You know, I know I've looked at cases, a 13 number of cases where trucks, pickup trucks have 14 been -- what do you call it? -- have been altered 15 after the purchase, whether it be lifted or, you know, 16 they've changed things out here and there, but that 17 usually doesn't have anything to do with my opinions. 18 Q. Sure. 19 And does the fact that the truck was 20 lifted in this case have anything to do with your 21 opinions you're going to give in this case? 22 A. Not as of today, no. 23 Q. In your experience how many, if you can 24 estimate, cases have you looked at where it involved 25 an atlanto-occipital disc articulation, if I've</p>
<p style="text-align: right;">Page 22</p> <p>1 doing today. We'll want to know more information so 2 we can answer questions a little better. 3 Q. Sure. 4 But as we sit here today, you don't 5 recall, you can't remember a case where you performed 6 an autopsy related to a death from a motor vehicle 7 accident involving a lifted vehicle? 8 A. What I'll say is I don't recall getting 9 that information in cases. Could it have been? Of 10 course. 11 Q. Sure. 12 A. You know, we're in the South so we see 13 some lifted vehicles, lifted trucks, but I can't 14 recall today if I have done any others that that was 15 involved. 16 Q. And that would apply both to when you've 17 performed the autopsy and when you've been hired as a 18 consultant to look at a case? 19 A. Well, no. When I'm hired as a consultant 20 to look at a case, you know, I go much further than 21 what I'll do today and so I will request all of that 22 information. 23 Q. Right. 24 A. Oh, I'm sorry, maybe I misunderstood 25 then.</p>	<p style="text-align: right;">Page 24</p> <p>1 pronounced that correctly -- 2 A. You did. 3 Q. -- resulting from a motor vehicle 4 accident? 5 A. Oh, and you mean both as a medical 6 examiner doing the autopsy as well as a consultant? 7 Q. Yes. 8 A. Oh, I've looked at -- from a motor 9 vehicle accident? I don't know if we're getting out 10 in the hundreds, but I've looked at definitely more 11 than 50. I would say probably -- probably more than 12 100. 13 Q. More than -- probably more than 100; is 14 that what you said? 15 A. Yeah. 16 Q. Sure. 17 A. Because there are certain -- it's a 18 pretty classic -- it's a pretty base knowledge in 19 forensic pathology to learn about atlanto-occipital 20 dislocations and disarticulations and things of that 21 sort. It's always on our board exams, so we know them 22 pretty well. 23 Q. Sure. 24 You were about to say it's kind of a 25 classic or common injury in a motor vehicle accident?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. I wouldn't say it's a common injury, but 2 it has specific findings and what to look for and 3 things of that sort. But it's -- it's well-known 4 within the forensic community. 5 Q. Sure. 6 What are the other types of incidents 7 that can cause -- and I'll call it AOD if that's -- 8 A. Sure. 9 Q. What are the other areas where you see 10 that happen? 11 A. Oh, well, you can see it from anything 12 that has a strong enough impact to like the chin or to 13 the sides of the head. You can have it without 14 impact, but that's a very large or a very high force 15 that needs to separate the skull from the spine. 16 Those are the most common. 17 As far as circumstances, falls, 18 extremely -- well, I shouldn't say "extremely," but 19 high impacts. You can have them with high 20 acceleration/deceleration forces. 21 Q. Would that be one example where you could 22 have an AOD without having a blunt trauma? 23 A. Oh, yes. You can have -- yes, that's 24 correct. 25 MS. CANNELLA: Sorry, what was "that,"</p>	<p style="text-align: right;">Page 27</p> <p>1 say -- 2 Q. I had to ask. I had to ask. 3 A. Or I should say not -- of course -- not 4 to my knowledge. I'll put it that way. 5 Q. All right. I want to ask you a few 6 questions about this accident. 7 A. Sure. 8 Q. Where -- do you know where CB was seated 9 in the vehicle? 10 A. I know he was in the rear of the vehicle. 11 I believe he was behind the driver, so in the Number 4 12 seated position. 13 Q. Okay. And you've collected that 14 information because you had access to the SCRT report, 15 I suspect? 16 A. That's correct. 17 Q. And it's fair to say that your entire 18 knowledge regarding the accident circumstance comes 19 from the SCRT report? 20 A. The SCRT report and the coroner's, when 21 the coroner calls the case, but that's basic knowledge 22 about, you know, it's a multi-vehicle accident, not a 23 single-vehicle accident. 24 Q. Gotcha. 25 And you haven't read any depositions from</p>
<p style="text-align: right;">Page 26</p> <p>1 the "that"? 2 MR. HILL: The AOD. Sorry, I'll re-ask 3 it if you want me to. 4 BY MR. HILL: 5 Q. That was the high acceleration and 6 deceleration forces/situation? 7 MS. CANNELLA: Okay. 8 A. Yes, sir, that's what I understood. 9 BY MR. HILL: 10 Q. Yeah. And when you say "high impacts," 11 are you referring to impact to the body or are you 12 referring to a high impact in an automobile accident 13 that may not necessarily involve blunt trauma? 14 A. The may not necessarily involve blunt 15 trauma. 16 Q. Gotcha. 17 Do you own a vehicle with a lift kit 18 installed? 19 A. No. 20 Q. Do you have any family members that have 21 lift kits installed on their vehicles? 22 A. No, sir. 23 Q. Have you ridden in a vehicle with a lift 24 kit installed? 25 A. Not to my recollection. Or I should</p>	<p style="text-align: right;">Page 28</p> <p>1 anyone who has testified in this case? 2 A. No, sir. 3 Q. You haven't spoken to any of the police 4 officers that responded, the first responders, the 5 medical providers, anyone like that? 6 A. That's correct, I have not. 7 Q. Do you know how fast the Ford F-250 was 8 traveling at the time of impact? 9 A. I think if I recall correctly there was 10 an estimate in the police report, but I don't recall 11 what it was. 12 Q. Okay. And do you know whether 13 Mr. Elliott, the driver of the F-250, made any evasive 14 maneuvers or did anything to prevent the accident? 15 A. No. Again, if I were an expert witness, 16 I may want to know those things; but no, I don't know 17 any of that information. 18 Q. All right. Do you know -- you've 19 indicated that you believe that CB was in the rear of 20 the vehicle behind the driver? 21 A. Yes. 22 Q. You know he was in a car seat? 23 A. I do. 24 Q. Do you know whether it was forward facing 25 or rear facing?</p>

<div>Page 29</div> <div> <p>1 A. I don't recall.</p> <p>2 Q. Okay. Do you know where his head was</p> <p>3 positioned prior to impact?</p> <p>4 A. I do not.</p> <p>5 Q. Do you know where he was positioned after</p> <p>6 the accident while he was still in the vehicle?</p> <p>7 A. I don't recall.</p> <p>8 Q. Do you know whether he was conscious when</p> <p>9 he was removed from the vehicle?</p> <p>10 A. I wasn't looking into that, so I</p> <p>11 didn't -- again, I didn't really go in-depth into</p> <p>12 looking into conscious pain and suffering so I don't</p> <p>13 know because I didn't really look into it.</p> <p>14 Q. Do you plan to give any opinions in this</p> <p>15 case regarding whether CB experienced any conscious</p> <p>16 pain and suffering?</p> <p>17 A. No, sir.</p> <p>18 Q. So you can't say one way or the other is</p> <p>19 what you're saying?</p> <p>20 A. Well, not as of today --</p> <p>21 Q. Right.</p> <p>22 A. -- with what I have looked at, that's</p> <p>23 correct.</p> <p>24 Q. All right. Would you agree that at the</p> <p>25 time that he suffered the AOD that at least from that</p> </div>	<div>Page 31</div> <div> <p>1 this word, but an intraosseous needle placed in his</p> <p>2 leg. You found that during your autopsy; is that</p> <p>3 correct?</p> <p>4 A. I did.</p> <p>5 Q. And was there any bruising in that area</p> <p>6 when it was removed?</p> <p>7 A. I would have to look at the photographs</p> <p>8 because he did have bruising on the thighs, which is</p> <p>9 not where the intraosseous line goes or was, but I do</p> <p>10 state (as read): There are a few small, scattered</p> <p>11 contusions around the thighs, knees and legs. So I</p> <p>12 would have to look at the photographs to tell you if</p> <p>13 there was anything in that area.</p> <p>14 What I'll say is, you know, I don't</p> <p>15 describe a large area of what I would say is called</p> <p>16 ecchymosis, which is bleeding from under the skin that</p> <p>17 is not as the result of a blunt impact, and that's</p> <p>18 what I would expect to see. And I know why you're</p> <p>19 asking it. So if I could look at the picture, I could</p> <p>20 tell you if there was bleeding around that.</p> <p>21 Q. (Complies).</p> <p>22 A. Great. Thank you.</p> <p>23 Q. Sure.</p> <p>24 A. So from the photograph that shows the</p> <p>25 left leg where the intraosseous line was, I don't see</p> </div>
<div>Page 30</div> <div> <p>1 point forward he did not experience any conscious pain</p> <p>2 and suffering?</p> <p>3 A. I would agree with that.</p> <p>4 Q. And you would agree that -- or you've</p> <p>5 opined I believe in the report that the AOD was caused</p> <p>6 by a blunt impact to his head and neck?</p> <p>7 A. That's correct.</p> <p>8 Q. And would you agree that the AOD occurred</p> <p>9 at the moment of or at the time of the blunt trauma or</p> <p>10 blunt impact?</p> <p>11 A. Yes, within milliseconds. So in my</p> <p>12 opinion, there's no doubt that this was a blunt impact</p> <p>13 head injury, not a rapid acceleration/deceleration</p> <p>14 injury because we have the fracture line that's coming</p> <p>15 from one side to the other. So once that impact</p> <p>16 happens and the fracture line comes down and the head</p> <p>17 gets pushed off of the spine, I agree after that</p> <p>18 there's no more conscious pain and suffering.</p> <p>19 Q. It's basically like a laceration of his</p> <p>20 brainstem; is that a fair way to describe it?</p> <p>21 A. That's exactly correct.</p> <p>22 Q. And it would occur within milliseconds of</p> <p>23 the blunt impact?</p> <p>24 A. That's correct.</p> <p>25 Q. There was also, and I'll mispronounce</p> </div>	<div>Page 32</div> <div> <p>1 anything remarkable as to bleeding in that area.</p> <p>2 Q. And I think you anticipated the reason</p> <p>3 why I was asking the question, but what does that</p> <p>4 signify to you?</p> <p>5 A. So two things: Number 1, you have to</p> <p>6 recall we're not going into a vein there. It's a</p> <p>7 needle that goes down into the bone. So, you know,</p> <p>8 the question is would the person have been alive with</p> <p>9 a blood pressure to allow bleeding to occur. What</p> <p>10 I'll say is that if we're looking at an IV in a</p> <p>11 vein --</p> <p>12 MS. CANNELLA: I don't mean to interrupt</p> <p>13 you, Dr. Eisenstat.</p> <p>14 But can we mark those so we know what he</p> <p>15 was looking at when he answers the questions --</p> <p>16 MR. HILL: Sure.</p> <p>17 MS. CANNELLA: -- since it's not a full</p> <p>18 set.</p> <p>19 MR. HILL: Sure, I gave him Bryson 33</p> <p>20 through 50.</p> <p>21 MS. CANNELLA: Okay.</p> <p>22 MR. HILL: And I'm not sure which</p> <p>23 particular photograph he looked at to answer</p> <p>24 the question.</p> <p>25 THE WITNESS: Yeah, I looked at two</p> </div>

<div>Page 33</div> <div> <p>1 photographs. The first one is Bryson 35, and</p> <p>2 that shows me the location of the line. And</p> <p>3 then Bryson 36 is an overall photograph of the</p> <p>4 child which -- now with the line taken out and</p> <p>5 I'm just looking in the general area.</p> <p>6 Do you want to mark the whole stack?</p> <p>7 MS. CANNELLA: That's fine. As long as</p> <p>8 we have the numbers on the record, that's fine.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. HILL: We don't need to mark it.</p> <p>11 Just --</p> <p>12 MS. CANNELLA: Okay.</p> <p>13 MR. HILL: -- you've referred to it now,</p> <p>14 but now we know which ones you were exactly</p> <p>15 referring to.</p> <p>16 THE WITNESS: Okay. So --</p> <p>17 MS. CANNELLA: Go ahead. I didn't mean</p> <p>18 to interrupt you.</p> <p>19 THE WITNESS: No, that's okay.</p> <p>20 A. So to go back to answer the question, if</p> <p>21 we were talking about an IV that goes into a vessel,</p> <p>22 then I would want to look to see if there's blood</p> <p>23 around there, which you don't always get even if the</p> <p>24 person is alive. So you're looking to see if there's</p> <p>25 anything to support that the child, in this case the</p> </div>	<div>Page 35</div> <div> <p>1 All right. You have your report right</p> <p>2 there; right?</p> <p>3 A. Yes, sir.</p> <p>4 Q. We'll jump to that.</p> <p>5 All right. In the first paragraph under</p> <p>6 Results and Conclusions, you state that you have</p> <p>7 performed a limited examination. I was just curious,</p> <p>8 what's the reason for that qualifier or what does that</p> <p>9 mean?</p> <p>10 A. Sure. So it means I didn't take every</p> <p>11 single organ out of the body. And I usually do that</p> <p>12 with trauma -- well, I shouldn't say "usually," but</p> <p>13 many medical examiners will do that in trauma cases.</p> <p>14 We'll look -- we'll document the trauma that's there.</p> <p>15 We'll look to see if we see anything abnormal, you</p> <p>16 know, like in a child is there a congenital heart</p> <p>17 disease or an adult is there some weird tumor that</p> <p>18 predisposed them to these types of injuries. And if</p> <p>19 we don't see any of that, we don't take the organs</p> <p>20 out. So that's why I put "limited" here.</p> <p>21 Q. So you did actually look for that, but</p> <p>22 because you didn't see anything of note, then you did</p> <p>23 not actually remove the organs; is that correct?</p> <p>24 A. Yes, that's correct.</p> <p>25 Q. Otherwise though, your autopsy wasn't</p> </div>
<div>Page 34</div> <div> <p>1 child, would have a blood pressure that would allow</p> <p>2 pushing out of the blood to lead to bleeding.</p> <p>3 This is a line that goes down into the</p> <p>4 bone. Yes, you have tiny little capillaries and</p> <p>5 venules, but I've seen plenty of cases where people</p> <p>6 have obviously been alive in the hospital with blood</p> <p>7 pressure, had intraosseous lines and there was no</p> <p>8 bleeding around it. So to bring all of that together,</p> <p>9 whether or not there was bleeding there doesn't really</p> <p>10 help me one way or the other as to was the child</p> <p>11 physiologically alive or not at the time it was</p> <p>12 placed.</p> <p>13 Q. Sure.</p> <p>14 One last topic related to that issue and</p> <p>15 that's he did suffer a subarachnoid hemorrhage;</p> <p>16 correct?</p> <p>17 A. Yes, that's correct.</p> <p>18 Q. And would the type of hemorrhage that he</p> <p>19 suffered, would that render him unconscious</p> <p>20 immediately upon that bleed?</p> <p>21 A. Well, not necessarily the bleeding</p> <p>22 itself, but that bleeding is associated with the</p> <p>23 laceration of the brainstem and so that's really what</p> <p>24 renders him unconscious at that time.</p> <p>25 Q. Makes sense. All right.</p> </div>	<div>Page 36</div> <div> <p>1 limited in any way?</p> <p>2 A. No, sir. It just means I did not take</p> <p>3 out all of the organs.</p> <p>4 Q. Sure.</p> <p>5 All right. And I'm assuming that</p> <p>6 everything that you list with regard to his general</p> <p>7 condition, you did not note anything out of the</p> <p>8 ordinary like you just mentioned: No disease</p> <p>9 processes, no abnormalities, nothing that would</p> <p>10 indicate that he was unhealthy in any way?</p> <p>11 A. That's correct.</p> <p>12 Q. All right. Under Evidence of Injury, you</p> <p>13 say (as read): There are blunt-impact injuries of the</p> <p>14 head and extremities. These will be described by body</p> <p>15 region. And then you say: No sequence is implied.</p> <p>16 So just so that I understand that, what</p> <p>17 does that, "no sequence is implied," mean?</p> <p>18 A. Absolutely. So that is a qualifier that</p> <p>19 I use in almost every trauma case. What I'm saying is</p> <p>20 just because I have blunt impact of the head and neck</p> <p>21 as the first section and blunt impact of extremities</p> <p>22 as the second, that doesn't mean that the head and</p> <p>23 neck happened first and the extremities second. I'm</p> <p>24 not implying any organization in the sense of</p> <p>25 time-wise.</p> </div>

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1 Q. Right.
 2 A. -- to these injuries I'm describing.
 3 Q. Great. That's what I thought.
 4 And so you did not make any effort to
 5 determine the sequence of these injuries?
 6 A. I did not.
 7 Q. Did you make any effort to determine what
 8 actual material impacted the child at any of these
 9 locations?
 10 A. No, sir. The only thing I can say is
 11 that I didn't see any type of pattern to the injuries,
 12 you know, like I know that -- I don't even know if
 13 this has any bearing in this case, but let's just
 14 think of like a waffle iron. I didn't see any impact
 15 of a waffle iron with that pattern there. So these
 16 are blunt-impact injuries that could have occurred
 17 from a number of things. What I will say -- and this
 18 is sort of jumping ahead.
 19 Q. Sure.
 20 A. But the fact that he was in a child seat
 21 and he has these two diagonally-oriented contusions on
 22 his thighs, that is consistent with the type of, you
 23 know, harness restraint that is in a child seat.
 24 That's the only thing I would say as potentially more
 25 specific.

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1 Q. I'm trying to find this one specific
 2 part, so bear with me.
 3 A. While you're doing that I would like to
 4 say --
 5 Q. Sure.
 6 A. -- that this morning -- or last night
 7 when I was just reviewing everything, it's not easy
 8 for me to say on the record, but I put down one of the
 9 wrong skull bones.
 10 Q. Okay.
 11 A. It doesn't change any of my opinions, but
 12 I put sphenoid bone and it's actually temporal bone
 13 and it's a little embarrassing. But you know, I just
 14 wanted to say that off the bat. I said the wrong
 15 bone.
 16 Q. Well, no problem. And that was exactly
 17 the question I was about to ask you. You say in here
 18 (as read): There is a depressed underlying fracture
 19 of the right sphenoid bone with linear extension along
 20 the right petrous ridge.
 21 So what is the appropriate bone there,
 22 the temporal bone?
 23 A. Temporal, correct.
 24 Q. All right. And where is the temporal
 25 bone located?

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1 A. Basically right under the ear. And at
 2 the petrous ridge -- well, it goes -- it's underneath
 3 and above the ear, but the petrous ridge is a
 4 continuation of that and within the petrous ridge are
 5 the inner ear components, which all goes together with
 6 an impact in that ear area.
 7 Something else I noticed was that I
 8 zoomed in on one of the autopsy photos, and I can tell
 9 you which one. I'm a little mortified with myself on
 10 all of this, but -- this is not how I usually work,
 11 but if we look at Bryson 48, and I'll show you in a
 12 moment, you can see that it actually continues down
 13 the fracture. This right here is the foramen magnum.
 14 This is the spine (indicating).
 15 Actually I can do it this way so you can
 16 both see. So we're looking at the right side of the
 17 head and the left side of the head and this is the
 18 forehead. So we're looking this way (indicating).
 19 Q. And let's stop you just so she can get
 20 it. So when he says -- this picture, the right side
 21 of the picture is the right side of the head?
 22 A. Yes.
 23 Q. The top of the picture, and that's with
 24 the base label at the bottom, the top of the picture
 25 would be the top of the head and the left side of the

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1 picture would be the left side just so you can have it
 2 down?
 3 A. Absolutely.
 4 MS. CANNELLA: Can I make a request that
 5 we just put a mark on it, our left?
 6 MR. HILL: I was going to give him --
 7 yeah.
 8 MS. CANNELLA: Okay. Sorry.
 9 MR. HILL: Sure.
 10 MS. CANNELLA: I'm a visual person.
 11 THE WITNESS: Actually black will be
 12 better because it's a blue background.
 13 So on Bryson 48 I'm going to put an R for
 14 right, I'm going to put an L for left, I'm
 15 going to put a T for top. So when I say --
 16 actually, let me put an F for forehead because
 17 the top of the head is actually taken off here,
 18 the top of the skull.
 19 BY MR. HILL:
 20 Q. Sure.
 21 A. And then I'll put a B for the back of the
 22 head.
 23 Q. Sure.
 24 A. And so coming from the right you can see
 25 this line of fracture. So the temporal bone is here

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1 (indicating). It continues as the petrous ridge, and
 2 then if we come down to this ring around the -- oh,
 3 I'm sorry --
 4 MS. CANNELLA: That's okay.
 5 A. -- this ring around the foramen magnum
 6 that goes down to the spine, there's a fracture on
 7 both sides of that ring. I didn't describe that in
 8 the autopsy report and I apologize. So --
 9 BY MR. HILL:
 10 Q. You didn't describe the fact that there
 11 was a fracture on both sides? Is that what you're --
 12 A. That's correct.
 13 Q. Okay.
 14 A. Well, I didn't even describe the fracture
 15 here.
 16 Q. Okay.
 17 A. I didn't describe the fracture around the
 18 ring of the foramen magnum.
 19 Q. Okay.
 20 A. So thanks for choosing the one case that
 21 I forgot to do things on. But since I'm here I can go
 22 ahead and just also show --
 23 Q. Sure.
 24 A. -- this should be completely open. You
 25 shouldn't see anything inside of this circle except

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1 for down into the spinal cord -- or spinal canal,
 2 excuse me. What we see is that hemorrhage here; and
 3 this front half of the ring, that's the spine. That
 4 shouldn't be there, and so that's that atlanto-
 5 occipital dislocation or disarticulation pushing the
 6 spine -- allowing the spine to pop into the opening,
 7 which causes the laceration of the brainstem. So I
 8 just -- I wanted to show where the actual fractures
 9 were and then since we were there what happened.
 10 Q. Sure.
 11 Is there -- would there be anything that
 12 you would note in your report other than simply the
 13 fact that there was fractures all the way to the -- I
 14 don't know how you pronounce that word. But other
 15 than the fact that you have those fractures there,
 16 does it change anything about your report?
 17 A. No, sir.
 18 Q. All right. It's just a clear indication
 19 of the atlanto-occipital disarticulation or
 20 dislocation?
 21 A. So it's a clear indication of the fact
 22 that this is an impact injury to the right side
 23 because there's no fracture on the left side or left
 24 temporal. And so if you think about a line, the
 25 forces coming and hitting the right side causing that

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1 fracture line to go along and get to that ring,
 2 fracture that ring, and push the skull off of the
 3 spine.
 4 Q. Sure. So the trauma is to the right
 5 temporal area; is that a good way to describe it?
 6 A. That's correct, yes, sir.
 7 Q. Did you find any other trauma locations
 8 on CB's head?
 9 A. I don't believe so, no.
 10 Q. Okay. Now, there's a mention in the
 11 previous paragraph of your report of a contusion and
 12 edema of the lateral aspect of the right upper eyelid.
 13 Is that -- you just, I think, explained that that's
 14 not indicative of trauma to that area?
 15 A. It is -- it's indicative of trauma to the
 16 right side of the head, but -- and a skull -- base of
 17 skull fracture, but you get bleeding through the soft
 18 tissues. So if you look at any of the photographs
 19 that show his face, you'll see that it's just blood
 20 underneath the soft tissues. Very, very common. We
 21 look for what are called raccoon eyes, and this is a
 22 partial raccoon eye.
 23 Q. Right. Raccoon eye being a periorbital
 24 ecchymosis (sic); is that right?
 25 A. Ecchymosis.

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1 Q. Ecchymosis. Okay. And you say that's
 2 simply a bleeding into that area from the trauma area
 3 on the right temporal side?
 4 A. It's more from the fracture of the base
 5 of the skull and then blood leaking down through the
 6 tissues.
 7 Q. Right. Gotcha. And so the raccoon eyes
 8 are a result of the skull fracture, not necessarily a
 9 result of actually trauma to the eye; is that fair?
 10 A. That's correct. It was not a secondary
 11 impact.
 12 Q. Okay. So you don't believe that the
 13 front of his face was impacted in any way like in the
 14 right eye area?
 15 A. That's correct, I don't believe that
 16 there's direct impact to the eye.
 17 Q. And again, you did not make an effort to
 18 determine what actually impacted his right ear? Let's
 19 just call it his right ear.
 20 A. Sure.
 21 Q. Is that fair?
 22 A. Yes.
 23 Q. You don't know what actual material
 24 impacted his right ear?
 25 A. I do not.

<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. And I noticed there was one 2 photograph in your materials of the car seat he was 3 riding in, but it's just one from a face-on view. Is 4 that the only one that you have seen? 5 A. Yes. 6 Q. And you are not able to tell from that 7 photograph whether the car seat was damaged in any 8 way? 9 A. No. Again, not pertinent to my opinions 10 as a fact witness. 11 Q. Sure. 12 And again, you don't have an opinion as 13 to whether -- or do you have an opinion as to whether 14 any part of his head impacted the driver's seat in 15 front of him? 16 A. I have no opinion on that. 17 Q. And with regard to the blunt impact to 18 his extremities, again, you did not or are not able to 19 make an opinion as to what impacted his extremities to 20 cause that blunt trauma? 21 A. Correct. What I -- 22 Q. Other than the seat belt? 23 A. Yeah, I was going to say. 24 Q. Yeah. 25 A. That -- that is pretty straight- -- to me</p>	<p style="text-align: right;">Page 47</p> <p>1 is that important? A full transection, that's lights 2 out immediately; you've lost complete connection from 3 the brain to the rest of your body and vice versa. 4 The laceration means that there still could have been 5 some functionality of the child, meaning that he 6 didn't die immediately, but that's really as much as I 7 would say for that. 8 Can I point one more thing out in the 9 photograph -- 10 Q. Sure. 11 A. -- which I think is important as well and 12 it will show you where the pontomedullary junction is? 13 Okay. So looking at Bryson 44 right in 14 the middle, this is the brainstem coming off. The 15 midbrain, it looks like it's been lacerated, but it 16 hasn't. That's an artifact of removing the brain, and 17 that's very important. Because whenever I have a 18 trauma case, I don't let the technicians remove the 19 brain. I do it myself so I can see what's happening. 20 So that's a -- that's an artifact. This 21 is the pons, the bigger white thing, and this is the 22 medulla (indicating). And so here is the junction, 23 the pontomedullary junction. The spinal cord would 24 continue here. You can see there's blood over the 25 distal portion. That's the subarachnoid hemorrhage.</p>
<p style="text-align: right;">Page 46</p> <p>1 it's very straightforward with the bruising that it's 2 highly consistent with the straps over the thighs; but 3 other than that all the other little small injuries, 4 no, I didn't make any effort to determine what caused 5 those. 6 Q. You mentioned as one of the summaries of 7 your findings a laceration of the pontomedullary 8 junction. Just describe what you mean by that 9 finding. 10 A. So what that means is that there is -- in 11 layman's terms it would be a cut. In true medical 12 terms it's not a cut. It's a -- it's a tear, which is 13 different, that comes from a blunt impact. 14 But when we look at the -- at that 15 photograph where I was talking -- I showed you the 16 fracture line coming across, the laceration is due to 17 the spine cutting the brainstem. The brainstem has 18 three portions to it, the midbrain, the pons and the 19 medulla, and the pontomedullary junction, or I should 20 say after the medulla it turns into the spinal cord. 21 So at the junction between the second and third 22 portions, which is the pons and the medulla, that 23 junction is where there was a laceration. 24 Saying "laceration" is very big to me 25 because it means it's not a full transection. And why</p>	<p style="text-align: right;">Page 48</p> <p>1 And the next photograph, Bryson 45, is 2 now going in closer to show you that there is this 3 laceration at the junction. It sort of has like a -- 4 sometimes we'll call it a rent, like you rent an 5 apartment, meaning a defect into it, but you can see 6 that that lac- -- this rent or this laceration, which 7 on Photograph Bryson 46 we're going in closer, you can 8 see that it doesn't go all the way through. In fact, 9 it doesn't even really go -- doesn't appear to go even 10 more than halfway through. So that's why he did not 11 die, quote-unquote, immediately. 12 And that's why we have -- now I'm on 13 Bryson 41. This is looking into the upper part of the 14 neck. I've removed the neck organs. The spine is 15 right behind all of this blood. That's why we have 16 all of this blood here. He still had enough of a 17 blood pressure to push that blood down from that 18 atlanto-occipital dislocation. But again, as I stated 19 earlier, once that laceration happened I wouldn't 20 think he would have any consciousness anymore, but he 21 still could have had vital signs to push that blood 22 out. 23 Q. I understand. 24 And the laceration you're referring to 25 there is of that joint or that junction?</p>

<p style="text-align: right;">Page 49</p> <p>1 A. Junction.</p> <p>2 Q. Junction. And then -- but you're saying</p> <p>3 the AOD would have occurred simultaneous with that</p> <p>4 laceration?</p> <p>5 A. Almost simultaneous, yes.</p> <p>6 Q. Right. And once the AOD happens, he's</p> <p>7 unconscious within milliseconds?</p> <p>8 A. I believe so, yes.</p> <p>9 MR. HILL: Okay. All right. We've been</p> <p>10 going an hour. Let me take a break, use the</p> <p>11 restroom if that's all right --</p> <p>12 MS. CANNELLA: Okay.</p> <p>13 THE WITNESS: Sure.</p> <p>14 MR. HILL: -- maybe get another cup of</p> <p>15 coffee, and then we can wrap things up</p> <p>16 hopefully pretty quickly.</p> <p>17 [Recess]</p> <p>18 BY MR. HILL:</p> <p>19 Q. We haven't talked much about the records</p> <p>20 from the first responders and I just have a few</p> <p>21 questions about that. There's a reference in there</p> <p>22 that his vitals were PEA, and what does that stand</p> <p>23 for? What does that mean to you?</p> <p>24 A. Sure. So PEA stands for pulseless</p> <p>25 electrical activity. So basically what that means is</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. The body fluids and tissue that you</p> <p>2 collected, it's never been tested to your knowledge;</p> <p>3 is that correct?</p> <p>4 A. To my knowledge, that's correct.</p> <p>5 Q. Right. And it's usually disregarded</p> <p>6 after a year; is that correct?</p> <p>7 A. I thought the GBI was two years.</p> <p>8 Q. Okay.</p> <p>9 A. But that's correct.</p> <p>10 (Thereupon, marked for identification,</p> <p>11 Defendant's Exhibit 4.)</p> <p>12 BY MR. HILL:</p> <p>13 Q. All right. Let me see what we've marked</p> <p>14 and make sure I have got everything. Why don't we</p> <p>15 mark that packet right there as Exhibit 4, "that</p> <p>16 packet" being the Bryson 1198 through 1222.</p> <p>17 MR. HILL: I believe we're on 4; correct?</p> <p>18 THE COURT REPORTER: Yes.</p> <p>19 THE WITNESS: Do you want to mark any of</p> <p>20 the -- since I wrote on the photos?</p> <p>21 MR. HILL: Yeah, let's go ahead and do</p> <p>22 that as well.</p> <p>23 (Thereupon, marked for identification,</p> <p>24 Defendant's Exhibit 5.)</p> <p>25 BY MR. HILL:</p>
<p style="text-align: right;">Page 50</p> <p>1 you feel for a pulse, you don't feel the pulse, but</p> <p>2 there's still -- like on an EKG when you see the</p> <p>3 blips, that's the electricity going through the heart.</p> <p>4 Those -- there's a list of things that can lead to PEA</p> <p>5 that a doctor needs to think about. Excuse me.</p> <p>6 Q. Sure.</p> <p>7 THE WITNESS: Off the record.</p> <p>8 (Thereupon, an off-the-record discussion</p> <p>9 was held.)</p> <p>10 A. And so what a lot of people -- what</p> <p>11 doctors think of initially are respiratory types of</p> <p>12 deaths or failure with pulseless electrical activity.</p> <p>13 That's really what it means.</p> <p>14 BY MR. HILL:</p> <p>15 Q. Right. And again, that may be evidence</p> <p>16 like you said that the laceration at the junction was</p> <p>17 not full so he was still in some ways connected to his</p> <p>18 brain, but again, we've already established at that</p> <p>19 point he was unconscious and was not suffering any</p> <p>20 conscious pain and suffering?</p> <p>21 A. Agreed. Excuse me one more second.</p> <p>22 Q. Sure. Take your time.</p> <p>23 (Thereupon, an off-the-record discussion</p> <p>24 was held.)</p> <p>25 BY MR. HILL:</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. All right. Exhibit 5 will be the full</p> <p>2 collection of photographs, Bryson 33 through Bryson</p> <p>3 50, I believe. Hold on. Yes, through 50.</p> <p>4 Speaking of that, what do the numbers on</p> <p>5 Bryson 33 represent?</p> <p>6 A. So that's the case number. It starts</p> <p>7 with the year, 2020. The one at the beginning of the</p> <p>8 second number means that it was a headquarters case,</p> <p>9 so here in Decatur. And it was the sixth -- excuse</p> <p>10 me, the 6,710th case called to the headquarters office</p> <p>11 of that year.</p> <p>12 Q. Gotcha.</p> <p>13 A. Everything that goes with this case</p> <p>14 throughout the GBI will reflect back to this number.</p> <p>15 Q. When you mentioned earlier that you</p> <p>16 recalled consulting on a case that involved a lifted</p> <p>17 vehicle, can you tell me what state that was in?</p> <p>18 MS. CANNELLA: Object to the form of the</p> <p>19 question. Misrepresents his testimony.</p> <p>20 A. I would -- I'd have to go back and look.</p> <p>21 I honestly have no idea. I think -- I think what I</p> <p>22 said was that I looked at other -- I looked at cases</p> <p>23 where vehicles had been altered, but I couldn't</p> <p>24 remember if it was specifically lifted or not.</p> <p>25 BY MR. HILL:</p>

<p style="text-align: right;">Page 53</p> <p>1 Q. Great. Thanks for clarifying that.</p> <p>2 A. Sure. And I have no idea. I'd have to</p> <p>3 look. I can tell you cases, I've looked at cases,</p> <p>4 states I've looked at cases in, but I don't -- I don't</p> <p>5 remember which one specifically to answer your</p> <p>6 question.</p> <p>7 Q. Right. And really what I'm trying to get</p> <p>8 to is: Have you ever given opinions in a case that</p> <p>9 involved a lifted vehicle that you can recall?</p> <p>10 A. I may have, but what I would say is my</p> <p>11 part of it would have nothing to do with did the</p> <p>12 alterations of the vehicle have anything to do with</p> <p>13 the accident. That is not for me to speak to. I</p> <p>14 don't think I've ever been asked a question to that</p> <p>15 effect, so then I don't think I have ever given an</p> <p>16 opinion to that effect.</p> <p>17 Q. Perfect.</p> <p>18 And you can -- obviously you're qualified</p> <p>19 to give opinions regarding the cause of death and the</p> <p>20 injuries that the decedent suffered, but you would not</p> <p>21 be qualified, I believe you said, to give opinions</p> <p>22 with regard to whether any dynamic of the vehicles</p> <p>23 involved caused the injury?</p> <p>24 A. Well, sometimes I would be, but again, in</p> <p>25 this case no because I haven't looked at that.</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. And --</p> <p>2 A. For the lethal injury, that's correct.</p> <p>3 Q. Right. And let's assume that Ms. Bryson</p> <p>4 has testified that she looked back and saw that her</p> <p>5 son's head was turned to the right and he was asleep</p> <p>6 as they left before the accident. Would that be</p> <p>7 consistent with your finding that he suffered a blow</p> <p>8 to the right ear and the right ear only?</p> <p>9 A. And is that a front-facing car seat?</p> <p>10 Q. It's a front-facing car seat.</p> <p>11 A. So if the child is asleep in a front-</p> <p>12 facing car seat with the child's head turned to the</p> <p>13 right, then that would be consistent. Again, I</p> <p>14 haven't looked at bio- -- the biomechanics of the</p> <p>15 baby.</p> <p>16 Q. Sure.</p> <p>17 A. But something on the right impacting the</p> <p>18 right side of the head, it could be consistent with</p> <p>19 that, absolutely.</p> <p>20 Q. Right. And the plastic of his car seat</p> <p>21 would be on the right side if he's turned to the right</p> <p>22 like we just mentioned?</p> <p>23 A. Well, is he turned all the way to the</p> <p>24 right or is he -- how far to the right is his head</p> <p>25 turned?</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. Right.</p> <p>2 A. In other cases I absolutely have -- I</p> <p>3 know I have given opinions that, you know, a specific</p> <p>4 injury was because of something specific impacting</p> <p>5 that individual, but that is obviously when I'm doing</p> <p>6 expert work where I have a lot more information that</p> <p>7 I've reviewed.</p> <p>8 Q. Sure.</p> <p>9 A. In this case, you know, with -- I mean, I</p> <p>10 haven't really been asked to do anything because --</p> <p>11 since I haven't been retained.</p> <p>12 Q. Sure.</p> <p>13 A. So in this case what I'm comfortable</p> <p>14 talking about is, and I think is im- -- might be</p> <p>15 important, I don't know, is that this is an injury</p> <p>16 from a blunt impact to the head. This is not a</p> <p>17 rotational injury, this is not an acceleration/</p> <p>18 deceleration injury, this is not a head that went out</p> <p>19 of a vehicle and was crushed, things of that sort.</p> <p>20 That's what I'm comfortable talking about in this</p> <p>21 case.</p> <p>22 Q. Sure.</p> <p>23 And that blunt impact was to the right</p> <p>24 ear area and the right ear area only?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Just turned to the right.</p> <p>2 A. Oh, well, I mean, it could be the side</p> <p>3 wings of the car seat or it could be the back portion</p> <p>4 of the car seat, but either way it's not -- it</p> <p>5 wouldn't be just that he gets hit from the back or the</p> <p>6 vehicle gets hit from the back and the head just goes</p> <p>7 against the car seat. It's got to be something is</p> <p>8 pushing into that head.</p> <p>9 Q. Sure.</p> <p>10 A. So I mean, I can't really say much more</p> <p>11 than that.</p> <p>12 Q. Sure.</p> <p>13 None of -- with his head turned to the</p> <p>14 right, it would be inconsistent with an opinion that</p> <p>15 his right side of his head struck the driver's seat in</p> <p>16 front of him?</p> <p>17 A. Oh, well, see, now we're getting out into</p> <p>18 biomechanics and I'm not a biomechanic. So I would</p> <p>19 have to defer to a biomechanic because I don't know</p> <p>20 the directionality of the forces in this case.</p> <p>21 Q. Sure.</p> <p>22 A. So I don't know if the -- if the child's</p> <p>23 head is to the right side, I mean, is it plausible</p> <p>24 that the impact from the intrusion into the back of</p> <p>25 the vehicle pushes his head this way (indicating)? I</p>

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1 don't know. I mean, it's plausible, but I'd have to
2 defer that to a biomechanic.
3 Q. Sure.
4 Are there any opinions that you have that
5 you intend to give in the case that I haven't covered?
6 A. No, sir.
7 MR. HILL: All right. I don't have any
8 other questions at this time. Thank you,
9 Doctor.
10 THE WITNESS: Sure.
11 MS. CANNELLA: Just one.
12 EXAMINATION
13 BY MS. CANNELLA:
14 Q. Are the injuries that you're describing,
15 could they also be consistent with the child's head
16 turned to the left?
17 A. I mean, again, they could be. If the
18 head is turned to the left, then the right side of the
19 head would have to be going forward or something from
20 the front coming back, but looking at the pictures of
21 the car, it looks like all of that intrusion is coming
22 from the back.
23 But anyways, it could be consistent with
24 the child's head turned in a bunch of directions.
25 It's just that the impact itself on the body is on the


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1 right side. So if the child's head is turned to the
2 left, it wouldn't be something from the back hitting
3 the left side of the head. The head would have to be
4 pushed forward and the right side of the head would
5 have to impact something in front of it. Did that
6 make sense?
7 Q. Uh-huh (affirmative).
8 Is it an injury that can happen from a
9 broad surface or does it have to be a focalized
10 impact?
11 A. No, it can be from a broad surface.
12 Q. Okay. All right. That's all I have.
13 Oh, and I'm sorry, one more thing. Do
14 you have any opinion about whether his head was turned
15 left or right?
16 A. No, I don't.
17 MS. CANNELLA: Okay. That's it.
18 MR. HILL: That's it.
19 (Thereupon, an off-the-record discussion
20 was held.)
21 THE COURT REPORTER: Orders, do you have
22 preferences?
23 MR. HILL: Just a Minuscript and that's
24 it. You don't have to -- that's all I need. I
25 don't need --

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1 THE COURT REPORTER: You don't need an
2 E-tran or anything like that?
3 MR. HILL: Yeah, might as well do E-tran
4 too. Sure.
5 THE COURT REPORTER: Same for you?
6 MS. CANNELLA: Yeah, just a PDF, the
7 whole package, the E-tran and the PDF.
8 (Deposition concluded at 10:19 a.m.)
9 ---
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1 C E R T I F I C A T E
2
3 I hereby certify that the foregoing
4 transcript was reported, as stated in the caption;
5 that the witness was duly sworn and elected to reserve
6 signature in this matter; that the colloquies,
7 questions and answers were reduced to writing under my
8 direction; and that the foregoing pages 1 through 59
9 represent a true, correct, and complete record of the
10 evidence given.
11
12 I further certify that I am not
13 disqualified for a relationship of interest under
14 O.C.G.A. 9-11-28(c); that I am a Georgia Certified
15 Court Reporter here as a representative of D'Amico &
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22 Board; and by the attached disclosure forms I confirm
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of D'Amico & Associates and the signature and original
seal is attached thereto.
This, the 21st day of January, 2024.

KELLY D'AMICO, RPR, CCR-B-1322

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1 ERRATA SHEET

2 Any changes in form or substance which you
3 desire to make to your deposition testimony shall be
4 entered upon the deposition with a statement of the
5 reasons given for making them.

6 To assist you in making any such
7 corrections, please use the form below. If
8 supplemental or additional pages are necessary, please
9 furnish same and attach them to this errata sheet.

10 - - -

11 I, the undersigned, JONATHAN EISENSTAT,
12 M.D., do hereby certify that I have read the foregoing
13 deposition and that said transcript is true and
14 accurate, with the exception of the following changes
15 noted below, if any:

16 Page____/Line____/Should Read:_____

17 _____

18 Reason:_____

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21 _____

22 Reason:_____

23 _____

24 Page____/Line____/Should Read:_____

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Reason:_____

Page 62

1 Page____/Line____/Should Read:_____

2 _____

3 Reason:_____

4 _____

5 Page____/Line____/Should Read:_____

6 _____

7 Reason:_____

8 _____

9 Page____/Line____/Should Read:_____

10 _____

11 Reason:_____

12 _____

13 Page____/Line____/Should Read:_____

14 _____

15 Reason:_____

16 _____

17 Page____/Line____/Should Read:_____

18 _____

19 Reason:_____

20 _____

21 _____

22 JONATHAN EISENSTAT, M.D.,

23 Sworn to and subscribed before me,

24 _____, Notary Public.

25 This _____ day of _____, 20____.

My Commission Expires: _____

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